



August 25, 2003

**VIA ELECTRONIC MAIL DELIVERY**

Mr. William Maher, Chief  
Wireline Competition Bureau  
Federal Communications Commission  
445 12th Street, S.W.  
Washington, D.C. 20554

Mr. John Muleta, Chief  
Wireless Telecommunications Bureau  
Federal Communications Commission  
445 12th Street, S.W.  
Washington, D.C. 20554

Re: Written *Ex Parte* Presentation by  
T-Mobile USA, Inc. in CC Docket No. 95-116

Gentlemen:

I am writing on behalf of T-Mobile USA, Inc. ("T-Mobile") to urge the Federal Communications Commission ("Commission") to resolve two issues that are hindering the implementation of wireless local number portability ("WLNP"), and to provide additional information regarding these issues in order to facilitate their resolution. Specifically, T-Mobile has urged the Commission to resolve the so-called "rate center dispute" by clarifying the scope of the porting obligations of local exchange carriers ("LECs"). This letter provides more detail about the requested clarification and explains why the Commission can provide the clarification without issuing another notice of proposed rulemaking. T-Mobile has also asked the Commission to clarify that incumbent local exchange carriers ("ILECs") and wireless carriers can port numbers between each other without entering into an interconnection agreement. This letter explains why the Telecommunications Act of 1996 (the "Act") does not require that ILECs and Commercial Mobile Radio Service ("CMRS") carriers enter into interconnection agreements solely to port telephone numbers between each other. To the contrary, service level agreements are all that is necessary, legally and operationally, to implement ILEC-CMRS portability.

Mr. William Maher, Chief  
Mr. John Muleta, Chief  
August 25, 2003  
Page Two

## THE RATE CENTER DISPUTE

The rate center dispute at its core is a dispute about the scope of the porting obligation of LECs. Section 251 of the Act imposes on all LECs “[t]he duty to provide, to the extent technically feasible, number portability in accordance with requirements prescribed by the Commission.”<sup>1</sup> Pursuant to Section 251, the Commission required LECs to implement long-term “service provider portability,”<sup>2</sup> which the Commission defined as “the ability of end users to retain the same telephone numbers as they change from one service provider to another.”<sup>3</sup> By contrast, the Commission did not require LECs to implement long-term “location” or “geographic” portability, which the Commission defined as “the ability of end users of telecommunications services to retain existing telecommunications numbers when they move outside the area served by their current central office.”<sup>4</sup>

The LECs’ duty to provide service provider portability extends to all carriers, including wireless carriers. As the Commission explained in the LNP First Report and Order,

Because the 1996 Act’s definition of number portability requires LECs to provide number portability when customers switch from any telecommunications carrier to any other, the statutory obligation of LECs to provide number portability runs to other telecommunications carriers. Because CMRS falls within the statutory definition of telecommunications service, CMRS carriers are telecommunications carriers under the 1996 Act. *As a result, LECs are obligated under the statute to provide number portability to customers seeking to switch to CMRS carriers.*<sup>5</sup>

The Commission also ruled that it regards “switching among wireline service providers and broadband CMRS providers, or among broadband CMRS providers, as changing service providers, not changing services . . . .”<sup>6</sup> In so ruling, the Commission clarified that an end user who wants to switch from a wireline carrier to a wireless carrier is requesting “service provider portability,” not “location portability,” and the Act requires the LEC to comply with the end user’s request.

---

<sup>1</sup> 47 U.S.C. 251(b)(2).

<sup>2</sup> *Telephone Number Portability*, 11 FCC Rcd 8352 (1996)(“LNP First Report and Order”).

<sup>3</sup> *Id.*, ¶172.

<sup>4</sup> *Id.*, ¶174.

<sup>5</sup> *Id.*, ¶8 (footnotes omitted and emphasis added).

<sup>6</sup> *Id.*, ¶172.

Mr. William Maher, Chief  
Mr. John Muleta, Chief  
August 25, 2003  
Page Three

Section 251 of the Act and Section 52.31(a)(1)(i) of the Commission's rules require a LEC, upon request by an end user, to port that end user's number to any other carrier, including wireless carriers, that serves the same location (*i.e.*, rate center). Another carrier serves the same location when it can originate and terminate calls at the location. Neither the Act nor the Commission's rules imposes any additional requirements as preconditions for the LECs' porting obligation. Therefore, because the Commission has already ruled that switching from a wireline carrier to a wireless carrier constitutes "service provider portability" required by the Act, a LEC, upon request by an end user, must port that end user's number to any wireless carrier that provides service to the end user's location (*i.e.*, the wireless carrier can originate and terminate calls to the rate center with which the end user's telephone number is associated).

The Commission's prior rulings make the LECs' porting obligation clear. Nonetheless, on the eve of the deadline for implementation of wireless LNP, many LECs have announced that, despite a request from an end user, they will not port a number to a wireless carrier unless the wireless carrier has its own numbers in the rate center and its own network facilities in that rate center. Some LECs have even suggested that they will not port any numbers to wireless carriers on the grounds that any such porting amounts to "location" or "geographic" portability because wireless services provide mobility and end users will be able to use wireless phones with (wireline) ported numbers to make and receive calls outside the LEC's rate center.<sup>7</sup>

The false claim that intermodal portability inherently constitutes location portability is often grafted onto the LEC assertion that intermodal portability inherently places additional burdens on them to route and transport calls. As LECs would have the FCC view it, plain old wireline calls suddenly must be transported by the LEC across the state, if not the nation, once the number is ported to a wireless service. This is simply not the case. The mobility of wireless is completely transparent to the wireline carrier's network and pocketbook.

By way of illustration, let's consider the typical wireline-to-wireless port: A wireline customer in Rate Center 1 ports his or her number to a wireless carrier providing service in Rate Center 1. There is no relevant sense in which honoring such a request amounts to porting

<sup>7</sup>

The LECs also complain of an alleged "competitive disparity" that arises from the different way in which wireless and wireline carriers assign numbering resources. Specifically, the LECs complain that wireless carriers will be able to accept ports from wireline carriers in nearly every rate center while wireline carriers will not be able to accept ports from end users whose wireless number is not associated with the rate center into which the number would be ported. As a practical matter, T-Mobile believes that the percentage of ports that could be affected by this phenomenon, which only affects wireless to wireline porting, not wireline to wireless, will be relatively small. Nonetheless, to the extent that porting trends that develop after the implementation of wireless LNP lead the Commission to believe this is a serious problem, the agency can issue a notice of proposed rulemaking to consider means for addressing the concerns. However, this issue provides no grounds for the Commission to delay issuing the clarification that T-Mobile requests.

Mr. William Maher, Chief  
Mr. John Muleta, Chief  
August 25, 2003  
Page Four

“across rate centers” or geographic or location portability. Certainly, once the number is ported to the wireless carrier, the customer will be able to be mobile with his or her phone and place and receive calls anywhere the wireless carrier provides service. But that mobility is completely transparent to the wireline carrier, which routes and rates those calls as it would route and rate any other calls made to customers of that wireless service provider in its service territory. Specifically, it routes the calls to the wireless carrier’s point of interconnection (“POI”) serving that rate center (which quite legally may or may not be physically located in that rate center), and it rates the call based on the originating caller’s number and the wireless phone’s number. It is the wireless carrier alone that takes on the burden of locating its customer, whether at home, across the street or across the country, and delivering that call to him or her. Quite simply that is what wireless carriers do – we send that call to wherever our customers are located, and it is our network that bears the resource and financial costs of that mobility.

As this explanation illustrates, the porting of a number also has no effect on the transport costs that the calling party’s carrier (*i.e.*, the originating carrier) incurs to route calls to that number. Traffic is exchanged between carriers – whether directly or indirectly through third-party LECs or interexchange carriers (“IXCs”) – pursuant to agreements that establish points of interconnection for given geographic areas. Porting does not change the manner in which carriers exchange traffic pursuant to these agreements. For example, with respect to long distance calls placed by customers of the ILEC (*e.g.*, calls to telephone numbers associated with rate centers not located in the same LATA as the calling party’s telephone number<sup>8</sup>), the ILEC determines from the dialed number that the call must be delivered to the calling party’s IXC ***without ever determining whether the dialed number has been ported.***<sup>9</sup> As such, the porting of a number is entirely transparent to the ILEC. Similarly, with respect to local calls placed by customers of the ILEC (*e.g.*, calls to telephone numbers associated with rate centers located in the same local calling area), the ILEC performs an LNP dip to determine whether the dialed number has been ported. If the dialed number has been ported, the LNP database returns the Location Routing Number (“LRN”) of the carrier to whom the dialed number has been ported. The LRN is a standard ten-digit NANP number that is used as a carrier-specific network address for a piece of equipment (*e.g.*, a switch). The ILEC then routes the call to the LRN returned by the LNP database rather than the dialed number. Since the LRN is a standard ten-digit NANP number, calls are routed to a carrier’s LRN exactly the same way as calls to telephone numbers originally assigned by NANPA to that carrier. Accordingly, calls from the ILEC to customers of a given carrier are routed exactly the same regardless of whether the dialed number was originally assigned to the carrier by NANPA or subsequently ported to the carrier. Therefore,

---

<sup>8</sup> The same explanation holds true for intraLATA toll calls where the calling party has the right to choose a different carrier from the ILEC to handle those calls.

<sup>9</sup> Under the Commission’s rules, the IXC, as the N-1 carrier, is responsible for determining whether the dialed number has been ported, not the calling party’s carrier.

Mr. William Maher, Chief  
Mr. John Muleta, Chief  
August 25, 2003  
Page Five

the calling party's carrier incurs exactly the same transport costs to deliver a call to a ported number as non-ported numbers.<sup>10</sup>

The porting of a number similarly has no effect on the manner in which calls to that number are billed by the carriers serving the calling parties. Specifically, under the FCC's rules, calls are rated based on the calling party's number and the called party's number. Because the porting of a number does not change the number, calls continue to be rated the same way. Therefore, parties calling a ported number, including numbers ported from a wireline carrier to a wireless carrier, incur exactly the same charges as they would have incurred for calling the number before it was ported.

Therefore, notwithstanding some LECs' claims that every wireless carrier must take number resources (or establish physical POIs) in every rate center, the fact is that none of these alleged "requirements" are necessary for legal, technical or operational reasons to facilitate wireless LNP. Likewise, none of these requirements apply to wireline intramodal porting today. Specifically, nothing in the Act, the Commission's rules, or industry guidelines requires a CLEC to obtain its own numbers in a rate center before the ILEC is obligated, upon request by an end user, to port the end user's number to the CLEC. Likewise, nothing in the Act, the Commission's rules, or industry guidelines requires a CLEC to obtain facilities and interconnect with an ILEC in a rate center before the ILEC is obligated, upon request by an end user, to port the end user's number to the CLEC. Indeed, the Commission has ruled repeatedly that an ILEC must offer competing carriers the ability to interconnect at a single point per LATA,<sup>11</sup> yet ILECs must port to CLECs upon request by an end user. Accordingly, there is no basis for the claim by some LECs that these requirements should apply to wireless carriers when wireless LNP is implemented on November 24, 2003.

In order to resolve disputes created by the baseless claims of certain LECs, T-Mobile urges the Commission to clarify that, upon request by an end user, a LEC must port the end-user's telephone number to any wireless carrier that serves the end user's location (*i.e.*, is capable of originating and terminating calls in the rate center where the end user is currently receiving the LEC's services). Since the clarification T-Mobile requests is merely a reiteration of the Commission's rulings in the LNP First Report and Order, no additional notice and comment period is necessary. By contrast, however, an additional notice and comment period would be necessary if the Commission were to allow the LECs to impose the additional requirements discussed above, because such an imposition would represent a change in the

---

<sup>10</sup> Any increases in the ILEC's transport costs can be attributed solely to the fact that a wireless or competitive carrier now serves the called party rather than the ILEC. However, this is merely the unavoidable consequence of the competition that the Act seeks to foster.

<sup>11</sup> See *Application by Verizon Maryland, Inc.*, FCC 03-57, ¶ 103 (rel. Mar. 19, 2003) (noting Commission rule that an ILEC must offer competing carriers the ability to interconnect at a single point per LATA).

Mr. William Maher, Chief  
Mr. John Muleta, Chief  
August 25, 2003  
Page Six

Commission's existing rules and policies, as well as industry practice. Therefore, T-Mobile respectfully urges the Commission to issue the requested clarification as soon as possible to facilitate the successful implementation of wireless LNP.

## INTERCONNECTION AGREEMENTS

On the eve of the deadline for implementing wireless LNP, certain ILECs now claim that the Act compels them to enter into interconnection agreements with every carrier to which or from which it ports numbers.<sup>12</sup> Nothing in the Act permits an ILEC to refuse to port a telephone number to another carrier merely because that carrier does not interconnect directly with the ILEC, and thus has not entered into an interconnection agreement with the ILEC pursuant to Section 252 of the Act. A number of ILECs acknowledge this, including Sprint, Verizon and BellSouth, but others are rejecting bona fide requests ("BFRs") for porting on the ground that they do not have an interconnection agreement with the requesting wireless carrier.<sup>13</sup>

Section 251(b)(2) imposes on every LEC "[t]he duty to provide, to the extent technically feasible, number portability in accordance with requirements prescribed by the Commission."<sup>14</sup> Apart from technical feasibility, the Act establishes no conditions on the duty to port. Likewise, the Commission has not prescribed a requirement that carriers enter into an interconnection agreement before they port numbers to each other.

Although Section 251 imposes upon ILECs the "duty to negotiate in good faith in accordance with Section 252 the particular term and conditions of agreements to fulfill the duties described in paragraphs (1) through (5) of subsection (b),"<sup>15</sup> which includes LNP, Section 252 only requires an ILEC to enter into negotiations regarding an interconnection agreement when it receives a "request for interconnection, services, or network elements pursuant to Section 251."<sup>16</sup> The submission of a port request by a wireless carrier on behalf of an end user is not a request for interconnection, services or network elements – it is a request that the ILEC port a specific number to the end user's carrier of choice.<sup>17</sup> Likewise, the request by another carrier for the

---

<sup>12</sup> See, e.g., Comments of SBC, CC Docket No. 95-116 (filed June 13, 2003).

<sup>13</sup> See, Reply Comments of Sprint, CC Docket No. 95-116 (filed June 24, 2003); Reply Comments of Verizon, CC Docket No. 95-116 (filed June 24, 2003); Comments of BellSouth, CC Docket No. 95-116 (filed June 13, 2003).

<sup>14</sup> 47 U.S.C. 251(b)(2).

<sup>15</sup> 47 U.S.C. 251(c)(1).

<sup>16</sup> 47 U.S.C. 252(a)(1).

<sup>17</sup> It is simply not the case that every LEC obligation listed in Section 251(b) has to be implemented through an interconnection agreement. The Commission has never made such a finding, nor has it been industry practice. For example, under Section 251(b)(4), LECs are obliged to offer right-of-way access to

Mr. William Maher, Chief  
Mr. John Muleta, Chief  
August 25, 2003  
Page Seven

ILEC to agree to a set of procedures and information exchanges to facilitate porting is not a request for interconnection, services or network elements. It is critical to note that in areas where thousand-block number pooling is *already* in place, wireless and wireline carriers are exchanging traffic with each other without interconnection agreements.

The legislative history of the Act is consistent with this interpretation. Congress initially drafted the LNP provisions of the Act to require an interconnection agreement for both interim and permanent LNP.<sup>18</sup> Congress then deleted the distinction between interim and permanent LNP and eliminated the requirement for an interconnection agreement.<sup>19</sup> This demonstrates that Congress did not intend the Act to allow ILECs to deny the port requests of end users merely because the carrier that the end user chose does not interconnect directly with the ILEC and thus does not have an interconnection agreement with the ILEC.

The Commission arguably has already rejected the position that LNP can only be implemented through interconnection agreements. Specifically, the Commission soundly rejected Bell Atlantic's argument that the Commission did not have authority to establish rates for interim number portability because Congress contemplated "negotiations between carriers" to establish the rate, which demonstrates that the Commission did not interpret the Act as requiring interconnection agreements between carriers to implement LNP.<sup>20</sup>

In sum, the argument that ILECs can deny the port requests of end users that want to switch to a carrier with which the ILEC has no interconnection agreement is without basis in the Act or the Commission's rules. Therefore, T-Mobile urges the Commission to clarify that interconnection agreements are not a necessary precondition to facilitate wireless number portability.

\* \* \*

---

competing providers of telecommunications services, which is typically not accomplished through interconnection agreements between the LEC and the competing carrier.

<sup>18</sup> See, e.g., Telecommunications Competition and Deregulation Act of 1995, S.Rpt. 104-23 (1<sup>st</sup> Session 1995) (discussing number portability provisions in proposed Sections 261(a)-(b)).

<sup>19</sup> See 47 U.S.C. §251(b)(2) (requiring LECs to implement local number portability).

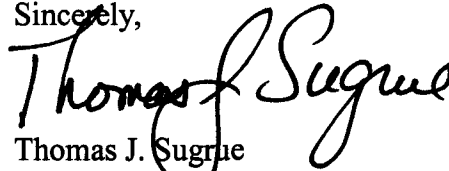
<sup>20</sup> Telephone Number Portability, 14 FCC Rcd 16459 (1999) ("Fourth Memorandum Opinion and Order on Reconsideration").

Mr. William Maher, Chief  
Mr. John Muleta, Chief  
August 25, 2003  
Page Eight

As required by Section 1.1206(b) of the Commission's Rules, we are filing electronically an ex parte notification of this written presentation for inclusion in the public record of the above-referenced proceeding.

Please do not hesitate to contact us if you have any questions or concerns.

Sincerely,



Thomas J. Sugrue  
Harold Salters  
Anna Miller  
*T-Mobile USA, Inc.*



Todd D. Daubert,  
*Counsel for T-Mobile USA, Inc.*

cc: Robert Tanner  
Carol Matthey  
Eric Einhorn  
Cheryl Callahan  
Matt Brill  
Jennifer Manner  
Sam Feder  
Dan Gonzalez  
Scott Bergmann  
Barry Ohlson  
Bryan Tramont  
Christopher Libertelli  
Paul Margie  
Jessica Rosenworcel  
Cathy Seidel  
Jared Carlson  
Walter Strack  
Joseph Levin  
Jennifer Tomchin  
Jennifer Salhus